

Appln. Serial No. 09/803,441
Amendment Dated August 15, 2005
Reply to Office Action Mailed June 16, 2005

REMARKS

A copy of a PTO Form-1449 (dated Dec. 18, 2002) partially initialed by the Examiner is attached herewith. In the attached copy of the PTO Form-1449, the Examiner did not place his initials by reference 1Q (DD 0245259 A1, 1987-04-29, Baer Wolfgang, WPI/DERWENT, Abstract – one page). It is respectfully requested that the Examiner place his initials by reference 1Q on the PTO Form-1449 dated Dec. 18, 2002.

In the Office Action dated June 16, 2005, claims 1, 3-5, 8, 10, 11, and 21 were rejected under 35 U.S.C. § 103 over U.S. Patent No. 5,598,186 (Edgar) in view of U.S. Patent No. 5,751,829 (Ringland) and U.S. Patent No. 6,344,853 (Knight); claims 14, 19, and 20 were rejected under § 103 over Edgar in view of Ringland; claims 6, 7, 9, 12, and 13 were rejected under § 103 over Edgar in view of Ringland, Knight, and U.S. Patent No. 5,506,946 (Bar); claim 18 was rejected under § 103 over Edgar in view of Ringland and Bar; claims 22 and 23 were rejected under § 103 over Edgar in view of Ringland, Knight, Bar, and Liu; claim 24 was rejected under § 103 over Edgar in view of Ringland and Liu; claim 25 was rejected under § 103 over Edgar in view of U.S. Patent No. 5,465,307 (Azumaya); claims 26 and 27 were rejected under § 103 over Edgar in view of Azumaya and Knight; and claims 28 and 29 were rejected under § 103 over Edgar in view of Knight; claim 30 was rejected under § 103 over Edgar in view of Knight and Ringland; and claims 31 and 32 were rejected under § 103 over Edgar in view of Knight, Ringland, and Liu.

Claim 1 recites a method that includes mapping a color image data signal to a defined color space to ascertain a corresponding color, determining an identity of the corresponding color, and sending the identity of the corresponding color over a network to a website. It is respectfully submitted that a *prima facie* case of obviousness has not been established with respect to claim 1 over Edgar, Ringland, and Knight, for at least the following reasons: (1) no motivation or suggestion existed to combine the teachings of the references, and (2) the hypothetical combination of the references does not teach or suggest *all* elements of the claim. See M.P.E.P. § 2143 (8th ed., Rev. 2), at 2100-129.

The Office Action conceded that Edgar and Ringland do not disclose sending an identity of the corresponding color over a network to a website (the corresponding color being ascertained by mapping color image data signal produced by scanning an object to a defined

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color space). 6/16/2005 Office Action at 4. The Office Action relied upon Knight as teaching the element missing from Edgar and Ringland. *Id.* Specifically, the Office Action cited Figure 3E(154) and col. 10, lines 13-18, of Knight, as disclosing this claim element.

The cited portions of Knight describe a purchaser selecting from among available colors for a selected product. This selection is in the context of the purchaser picking a product and a logo to combine into a common image. See Knight, 9:30-10:67. Note that selection is made by a purchaser by clicking on one of several keys (154a-154e) shown in the web page of Figure 3E of Knight. A user manually selecting a color by clicking on an item of a web page, as disclosed by Knight, does not teach or suggest sending the identity of the corresponding color, ascertained by mapping a color image data signal produced from a scan to a defined color space. What Knight would have taught or suggested to a person of ordinary skill in the art is that a person can manually perform color selection in an on-line purchase—there is absolutely no suggestion provided by Knight of sending the identity of a color generated based on scanning and mapping as performed in claim 1. Knight thus fails to teach or suggest the feature of claim 1 that is missing from both Edgar and Ringland. The hypothetical combination of Edgar, Ringland, and Knight therefore fails to teach or suggest *all* elements of claim 1.

Also, there existed no motivation to combine the teachings of these three references to achieve the claimed invention. Neither Edgar nor Ringland suggests any desirability for the manual color selection feature taught by Knight. Specifically, Edgar is related to eliminating artifacts associated with image display nonlinearities. Edgar, 1:9-20. There existed absolutely no suggestion of any desirability to incorporate a web page in which a user can select from available colors of a product and logo into the system of Edgar. The Office Action has basically engaged in using impermissible hindsight to pick and choose from un-related items of prior art references to form a combination, where no motivation or suggestions existed for such combination.

In view of the foregoing, it is respectfully submitted that a *prima facie* case of obviousness cannot be established with respect to claim 1 over Edgar and Ringland.

Independent claim 28 was rejected as being obvious over the asserted combination of Edgar and Knight. As discussed above with respect to claim 1, Knight does not disclose or suggest communicating an identity of a corresponding color to a website, where the

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corresponding color is mapped from a color image data representing an object scanned by a scanner. Therefore, since neither Edgar nor Knight discloses or suggests this feature of claim 28, the hypothetical combination of Edgar and Knight does not teach or suggest all elements of claim 28.

Moreover, as noted above, there existed no motivation or suggestion to combine the teachings of Edgar and Knight to achieve the claimed invention. For the foregoing reasons, a *prima facie* case of obviousness has not been established with respect to claim 28.

Independent claim 14 was rejected over the asserted combination of Edgar and Ringland. Claim 14 recites a computer that performs the following tasks: in response to user selection, select a color region on a color image data signal (representative of an object that has been scanned by a scanning apparatus); determine a dominant color from a plurality of colors in the selected color region; map a portion of the color image data signal corresponding to the dominant color to the defined color space to ascertain an identity of the corresponding color; and present the identity of the corresponding color to a user.

The Office Action conceded that Edgar fails to disclose the elements recited above. 6/16/2005 Office Action at 7-8. However, the Office Action cited passages in columns 19 and 20 of Ringland as teaching these features. *Id.* at 8. The cited passages of Ringland describe a paint matching window that contains a "Match Paint" button 702 for finding paints 706 that match the colors of any sample that has been marked for later use. The user is shown a color swath for each matching paint, along with the paint name, the manufacturer's number, and the page number in the manufacturer's book. These cited passages of Ringland refer to matching paints (note plural sense) to plural colors (note plural sense) of a sample. There is no indication or suggestion here, or anywhere else in Ringland, of a computer determining a *dominant* color within a selected color region of a color image data signal that represents an object that has been scanned by a scanning apparatus, and mapping a portion of the color image data signal corresponding to the *dominant* color to the defined color space. Therefore, it is respectfully submitted that the hypothetical combination of Edgar and Ringland does not teach or suggest the invention of claim 14. A *prima facie* case of obviousness has therefore not been established with respect to claim 14.

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Claim 26 has been amended from dependent form to independent form, with the scope of the claim remaining *unchanged*. Claim 25 has been cancelled, without prejudice. Note that the dependencies of other claims have not been changed. Therefore, entry of this amendment for purposes of *appeal* is respectfully requested.

Claim 26 was rejected over the asserted combination of Edgar, Azumaya, and Knight. Claim 26 recites an article comprising a storage device containing program code that when executed cause a system to receive color image data representing an object scanned by a scanner, where the object has a texture; process the color image data to remove influence of the texture, the processing producing a de-texturized color image data; map the de-texturized color image data to determine a corresponding color in a defined color space; and send an identity of the corresponding color over a network to a website.

As conceded by the Office Action, Edgar and Azumaya do not disclose sending the identity of the corresponding color over a network to a website, where the corresponding color is based on mapping de-textured color image data representing an object scanned by a scanner. The Office Action relied upon Knight as disclosing this feature. However, as discussed above, Knight does not teach or suggest sending an identity of such a corresponding color. Therefore, the hypothetical combination of Edgar, Azumaya, and Knight does not teach or suggest all elements of claim 26.

Moreover, there existed no motivation or suggestion to combine the teachings of the references to achieve the claimed invention. Edgar is related to eliminating artifacts associated with image display nonlinearities. Edgar, 1:9-20. There existed absolutely no suggestion of any desirability to incorporate a web page in which a user can select from available colors of a product and logo into the system of Edgar. Azumaya teaches image processing performed in a digital copying machine; therefore, Azumaya also does not suggest any desirability to incorporate the web page of Knight.

In view of the foregoing, it is respectfully submitted that a *prima facie* case of obviousness has not been established with respect to claim 26.

Dependent claims are allowable for at least the same reasons as corresponding independent claims. In view of the fact that the obviousness rejections of independent claims are

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defective, it is respectfully submitted that the obviousness rejections of the dependent claims are also defective.

Additionally, as conceded by the Office Action in the rejection of claim 9 (which depends from claim 1), Edgar, Ringland, and Knight do not disclose the task of removing influence of texture from a color image data signal. 6/16/2005 Office Action at 11. However, the Office Action cited Bar as disclosing this feature, pointing specifically to column 5, lines 28-38, of Bar. The cited passage of Bar refers to *preserving* shading and *texture* of an image region. Preserving the texture of an image region contradicts the subject matter of claim 25, which recites processing the color image data to *remove influence of the texture*. As taught by Bar, when performing touch-up or painting of images in prior art systems, fill operations are typically performed in which a region of an image is filled with a selected color, which completely overwrites any prior color and consequently removes any shading or texture that appeared in the selected region. Bar, 1:30-48. The textures or shadings are destroyed by these prior art fill operations. Bar, 1:48-49. To overcome this shortcoming of prior art systems, Bar proposed a technique that *preserves* shading and texture in the original scene and allows a user to selectively color edit the image to improve the appearance of the image. Bar, 3:19-21. In other words, rather than teach the processing of a color image data to *remove* influence of the texture, Bar teaches that the texture has to be *preserved*.

The Office Action argued that by performing the color processing based "solely" on the target color, and not the texture of the region, the influence of the texture is negated. 6/16/2005 Office Action at 3. "Thus, the *influence* of the texture is removed by making the texture irrelevant to the color image data processing." *Id.* These two statements are clearly not supported by Bar. There is no teaching in Bar that color processing is based "solely" on target color and not the texture of the region. In fact, Bar teaches the complete *opposite*, namely that the image processing is *preserves* the texture of the image region. Therefore, this further argument made in the Office Action does not support the obviousness rejection of claim 9.

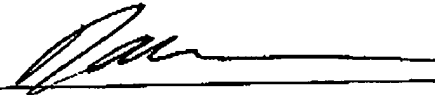
A *prima facie* case of obviousness has similarly not been established with respect to dependent claim 18, which depends from independent claim 14, over Edgar, Ringland, and Bar.

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Allowance of all claims is respectfully requested. The Commissioner is authorized to charge any additional fees and/or credit any overpayment to Deposit Account No. 08-2025 (10004872-1).

Respectfully submitted,

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